APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,414	02/26/2002	Mark Edward Ball	AUS920010983US1	4655

7590 03/14/2005	EXAMINER
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ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	10/082,414	BALL ET AL.
	Examiner	Art Unit
	Ting Zhou	2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>21 January 2005</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-18</u> is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-18</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>21 January 2005</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____.

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
     Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   The amendment filed on 21 January 2005 have been received and entered. Claims 1-18

are pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelts U.S.

Publication 2001/0030667 and French-St.George et al. U.S. Patent 6,018,711.

Referring to claims 1, 7 and 13, Kelts teaches a computer controlled user interactive

display system with a graphical user interface (Kelts: page 1, paragraph 0010), method and

program comprising means for storing a plurality of application programs (storing a plurality of

application programs such as media files, radio programs, applets, video games, etc. in the

application database) (Kelts: column 4, paragraph 0060, page 10, paragraph 0107), a plurality of

displayed objects, each representative of one of the application programs (displaying a plurality

of symbols, or icons, on an interactive graphical map to represent the available programs or files)

(Kelts: page 3, paragraphs 0047-0049 and page 5, paragraph 0067), means enabling a user to

interactively select any of the displayed objects to thereby run the application program

represented by the object (map items such as icons can be selected to display real-time

information regarding the program associated with the selected item) (Kelts: page 3, paragraph

0049 and page 4, paragraphs 0060-0061), and means associated with each of the objects for

displaying a visual indicator (associating visual indicators, such as color, with the displayed

icons; for example, different colored map items, or icons may indicate different types of

programs) (Kelts: page 8, paragraphs 0088-0089). However, Kelts fails to explicitly teach means

for tracking the rates of unrequested interruptions in the run of each of the application programs

and displaying a visual indicator of the rate of unrequested interruption in the run of the

application program represented by the object. French-St. George et al. teach a user interface

that associates displayed objects with particular information (for example, associating the change

in the rate of animation with the closing rate of a window) (French-St. George et al.: column 3,

lines 14-16 and column 7, lines 9-21) similar to that of Kelts. In addition, French-St. George et

al. further teach means for tracking the rates of unrequested interruptions in the runs of each of

the application programs, and associating a visual indicator with the rate of unrequested

interruptions in the run of the application program (monitoring and displaying, via the change in

animation of a displayed object, the closing rate of an application window) (French-St. George et

al.: column 7, lines 16-21). It would have been obvious to one of ordinary skill in the art, having

the teachings of Kelts and French-St. George et al. before him at the time the invention was

made, to modify the graphical user interface for displaying an object representative of an

application program of Kelts to include the tracking and display of the closing rate of application

windows, as taught by French-St.George et al. One would have been motivated to make such a

combination in order to draw users attention to a closing program by highlighting a particular

displayed object, allowing them to quickly realize and readily correct the errors; as a result, user

feedback and control of the interface is improved.

Referring to claims 2, 8 and 14, French-St. George et al. teach the unrequested

interruptions are closings in the runs of the application program (monitoring and displaying, via

the change in animation of a displayed object, the closing rate of an application window)

(column 7, lines 16-21).

Referring to claims 3, 9 and 15, Kelts teaches the displayed objects are icons (the map

elements displayed on the interface are symbols, or icons, representing corresponding programs)

(page 3, paragraphs 0048-0049).

Referring to claims 4, 10 and 16, Kelts teaches the visual indicator comprises a set of

colors, each color in the set indicating a particular type, or categorization of displayed objects

(the map items are displayed in a plurality of different colors, comprising a set of colors, such as

red, green, etc.) (Kelts: page 8, paragraphs 0088-0089). French-St. George et al. teach a visual

indicator indicating a closing rate of an application window (monitoring and displaying, via the

change in animation of a displayed object, the closing rate of an application window) (French-St.

George et al.: column 7, lines 16-21). It would have been obvious to one of ordinary skill in the

art, having the teachings of Kelts and French-St. George et al. before him at the time the

invention was made, to modify the display of the visual indicator with a set of colors taught by

Kelts to include the display of the closing rate of an application window of French-St. George et

al., in order to obtain a display wherein the visual indicator comprises a set of colors, each color

in the set indicating a rate level of the unrequested closing. One would have been motivated to

make such a combination in order to draw users attention to a closing program by highlighting a

particular displayed object, allowing them to quickly realize and readily correct errors; as a

result, user feedback and control of the interface is improved.

Referring to claims 5, 11 and 17, Kelts teaches the colored visual indicator is in the form

of a band around the icon (for example, displaying flashing red arcs surrounding an active map

item) (page 8, paragraph 0089).

Referring to claims 6, 12 and 18, Kelts teaches a plurality of the stored application

programs represented by the icons are different versions of the same application program (the

icons, or symbols displayed on the map can represent different versions of the same application

programs, for example, different channels in a television or radio) (page 4, paragraphs 0060-

0061 and page 5, paragraphs 0067-0068).

Response to Arguments

3.   Applicant's arguments filed 21 January 2005 have been fully considered but they are not

persuasive:

4.   The applicant argues that there is nothing in the French-St. George reference suggestive

of the tracking of application program interruptions or the use of a visual indicator to illustrate

the rate of such interruptions. The examiner respectfully disagrees. French-St. George teaches an

animation, such as a visual icon that provides users with a graphical representation of the rate at

which an application program, i.e. a recognition window, is closing via the rate of change of the

animation, as recited in column 5, lines 1-19 and column 7, lines 16-22; in other words, the rate

of unrequested interruptions, or the rate of closing of a program window is determined and

correspondingly represented by the rate of change of the animation of the visual icon. Therefore,

the examiner respectfully contends that the French-St. George reference teaches tracking of

application program interruptions and the use of a visual indicator to illustrate the rate of such

interruptions.

5.   As a further note, the applicant's proposed amendments filed on 28 January 2005,

amending claim 1 by replacing the limitation "the rates of unrequested interruptions" with the

limitation "crash rate" and canceling claim 2 has been received. However, the examiner cannot

determined the patentability of the proposed amended claims without further search and/or

consideration of the amended claims and since the **proposed** amendments are not submitted as

formal amendments, the examiner has not searched or considered the proposed amendments to

the claims at the present time.

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing
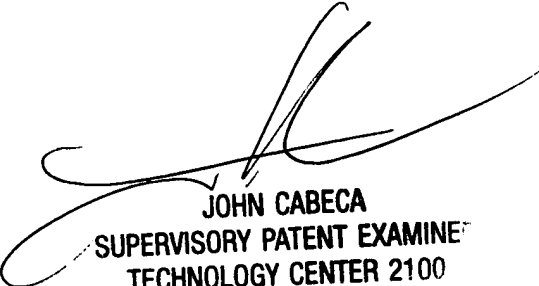
date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ting Zhou whose telephone number is (571) 272-4058. The

examiner can normally be reached on Monday - Friday 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cabeca can be reached at (571) 272-4048. The fax phone number for the

organization where this application or proceeding is assigned is (571) 273-4058.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TZ

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